

SENATE BILL REPORT

SJM 8003

As Reported by Senate Committee On:
Human Services & Corrections, February 7, 2013

Brief Description: Requesting Congress to amend the Communications Decency Act.

Sponsors: Senators Kohl-Welles, Padden, Kline, Roach, Fraser, Carrell, Darneille, Pearson, Conway and Chase.

Brief History:

Committee Activity: Human Services & Corrections: 2/04/13, 2/07/13 [DP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Carrell, Chair; Pearson, Vice Chair; Baumgartner, Darneille, Ranking Member; Hargrove, Harper and Padden.

Staff: Joan Miller (786-7784)

Background: The Communications Decency Act (Act) was enacted in 1996 to promote the continued development of the internet. Section 230 of the Act assures internet service providers (ISPs) nearly complete immunity from liability as a way to encourage ISPs to promote the growth of the fledging internet without incurring liability for third-party communications. The section immunizes ISPs, even if they have actual notice of the harmful or offensive content and fail to take action.

In 1996, section 230 applied mainly to companies such as AOL and other large ISPs. But as the internet has expanded, some courts have held that the section also immunizes websites such as facebook, MySpace, and backpage.com, making the legislation controversial. Today, the internet makes it possible for companies such as backpage.com to earn millions of dollars annually from the sale of location-specific advertisements, some of which directly facilitate the sex trafficking of minors and other victims. Without a change to section 230, states are unable to enact reforms that hold ISPs responsible for facilitating crimes against children and refusing to implement any measures to verify the age of persons featured in their advertisements.

Summary of Bill: The Washington State Senate respectfully urges Congress to amend the Act to reflect the current scope and power of the internet, to acknowledge the publisher-like

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role of companies like backpage.com, and to authorize states to enact and enforce laws holding ISPs liable when they knowingly facilitate child sex trafficking through the sale of adult escort advertisements.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Staff Summary of Public Testimony: PRO: This is a very serious situation. Children are being sold over the internet into prostitution, and we must do everything we can to shut down that operation. Backpage.com makes over \$20 million per year. Just last fall the Village Voice, which used to be the umbrella organization over the weekly advertisements, severed its ties with backpage.com. The Seattle Weekly requires someone to come in person to verify the age of persons depicted in adult escort print advertisements. The Stranger requires verification for both print and online advertisements. States, however, have been stymied on addressing this issue because of section 230 of the Act. Legal scholars have consistently written about the need to amend the Act due to technological changes and the prevalence of children being exploited online. The constitutional issues regarding immunity cannot be overcome without a change from Congress.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor; Rose Gundersen, WA Engage.